

IRRIGATION LAW ENDANGERED.

Disturbing Utterances by Justice Brewer in the Kansas-Colorado Case—Magnitude of the Government's Irrigation Work.

One of the Government's great industries, which was established in large part at the instance of President Roosevelt, and was one of the earliest of his achievements in the White House, is threatened with extinction. This is the irrigation of arid lands. Less is known here in the East about the great irrigation works the Government is building, but they are of enormous extent, and are being carried on in communities throughout the Western States and Territories.

Three or four weeks ago Mr. Justice Brewer, in his dissenting opinion of the Supreme Court of the United States in a famous case of the rights of Kansas and Colorado to the water of the Colorado River, indulged in comments which have excited the attention of the National Irrigation Law of June 17, 1902. There was nothing very decisive about his comments, but it is a matter of vital interest to the Government because if the law is not constitutional the Government will eventually be involved in a large financial loss.

Work of the Reclamation Service.

This will be seen when it is stated that a summary of the work of the Reclamation Service for the year ending when the Reclamation Law had been in operation but a little over four years, showed that the Government had dug 1,267 miles of canals, which are now in use, and have an aggregate length of nine and a half miles. The Service has erected 94 large structures, including two great dams in Nevada and the Minner's dam in Idaho, 80 feet high and 650 feet long. It has completed 670 headworks, flumes, etc. It has built 516 miles of wagon roads in mountainous country, and has here-tofore inaccessible regions. It has erected and has in operation 1,373 miles of telephones. Its own cement mill has manufactured 2,000 barrels of cement, and the purchased amount is 312,000 barrels. Its own saw mill have cut 3,036,000 feet B. M. of lumber, and 6,540,000 feet have been purchased. The surveying parties of the service have completed topographic surveys covering 10,970 square miles, an area greater than the combined areas of Massachusetts and Rhode Island. The transit lines had a length of 18,900 linear miles, while the level lines run amount to 24,218 miles, or nearly sufficient to go around the earth.

The diamond drillings for dam sites and canals amount to 47,515 feet, or more than nine miles. To-day the service owns and has at work 1,154 horses and mules. It operates 12 line locomotives, 223 cars and 23 miles of railroad, 39 stationary engines and 27 steam engines. It has constructed and is operating five electric plants. The work has been carried on with the following force: Classified service, 280, including the Washington office; laborers employed directly by the Government, 3,500; laborers employed by contractors, 6,100; or a total of all forces of 10,000. The expenditures now total about \$1,000,000 per month. The excavations of earth and rock amount to 23,000,000 cubic yards, or about one-fourth the estimated yardage of the Panama Canal. As a result of the operations of the Reclamation Service, eight new towns have been constructed, and 16,000 people have taken up their residence in the desert.

The Government claims that the law cannot be successfully attacked, and that there is no present prospect that it will be. All the reclamation projects, involving many millions of dollars, are being pressed just as energetically as ever. Further than to carefully examine Justice Brewer's opinion and to analyze the same and also to collect the various authorities bearing on the subject, all of which is simply the exercise of usual caution. Government officials say they are paying no attention to the decision of the Supreme Court. The subject in the Far West is attributed largely to ex-Senator George Turner, of Washington State, and to his law associates, who are attorneys for the Irrigation Land and Improvement Company in Arizona.

The Geological Survey Disturbed.

No one around the Geological Survey is willing to discuss the situation for publication, because it is claimed that this would not only prejudice the public, and whatever is said would be taken up by parties to various irrigation projects and made the most of. In spite of this, however, the situation is very disquieting to the public.

Altho it has been stated again and again that the constitutionality of the law will be passed upon when an equity suit for an irrigation project is brought to the interior, brought by the Irrigation Land and Improvement Company, reaches the Supreme Court, where an appeal is now pending, nothing of the kind is expected by the Government lawyers. Unless the customary practice is departed from widely the argument of this case next autumn before the Supreme Court of the United States will be solely on the question of jurisdiction. At least there has been an agreement between the Government's attorneys and ex-Senator Turner and his associates to confine the argument to that point. The possibility of including the constitutionality of the law is admitted, but it is regarded as improbable. Ex-Senator Turner, if he loses in the Supreme Court on the question of jurisdiction, may renew his fight on the line of alleged unconstitutionality, but that remains to be seen. If the law is constitutional in any particular that will probably be true only of irrigation projects within States and not within Territories. Another Arizona irrigation project, the Yuma Dam project, is a Territory, and promises to remain a Territory for some time to come. Therefore, it is doubtful whether ex-Senator Turner would help his clients materially if he could overturn the irrigation law.

Washington State people put their money into this Irrigation Land and Improvement Company, and the enterprise has proven a failure. Their ditches filled with silt, which is one of the serious obstacles to irrigation work in regions along the Colorado, and so as to furnish patrons with a regular supply of water. With the beginning of the Yuma project the Washington State interests desired to dispose of their property to the Government. The Territory was entered. A Board of Engineers went over the property carefully, and decided that it was not worth more than \$15,000. The Arizona people, however, wanted \$500,000 for the property, which figure the Government refused.

A levee and canal were built by the Government across one of their ditches, which was not in use, but filled with mud. An agreement was made to construct a proper opening whenever the company could use the ditch, but over that the controversy has started. The Government also claims that its patent to the lands confer the specific right to construct a canal and levee. The Government contends further that the case should be tried in the Arizona Territorial Courts, but the Irrigation Com-

pany brought it here. The decision of Justice Brewer in the District Supreme Court was unfavorable to the company, which then appealed to the Supreme Court of the United States, the attorneys having agreed, as already stated, to confine the arguments to the question of jurisdiction. A suit had previously been begun in the Arizona Courts against the United States contractors on the Yuma project, but the company lost.

Justice Brewer's Words.

Justice Brewer's comments in the course of the Kansas-Colorado decision, by which he intimated that the irrigation act is unconstitutional, is styled by legal lawyers here as "a bomb" of the kind of outside the case before the court. It has been suggested, how truly cannot be told, that he was speaking entirely on his own responsibility, that the comments were put in by the Justice without consulting the Court, as has occasionally happened. It is also claimed that some of Justice Brewer's comments were by any means contradictory. In the course of his opinion Justice Brewer said:

"The determination of the rights of the two States of Kansas and Colorado, to the flow of the Arkansas River is subordinate to the superior right on the part of the National Government to control the whole system of the reclamation of arid lands. That involves the question whether the reclamation of arid lands is one of the powers granted to the General Government. The constitutionality of this act is not granted to it by the Constitution, and the powers actually granted must be such as are expressly given or given by necessary implication." "The Government's claim that it is one of delegated, limited powers."

"Turning to the enumeration of the Constitution, it is enough to say that no one thing is given to the Government by the reclamation of arid lands."

"We must look beyond Sec. 8 for Congressional authority over arid lands, and it is said to be found in the second paragraph of Sec. 3 of Article IV, reading: 'Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claim of the United States or of any particular State.'"

Has the Government Power to Irrigate?

Justice Brewer in these comments of such vital interest to the people in the arid States and Territories further discusses the subject as follows: "At the time of the adoption of the Constitution within the known, and conceded limits of the United States there were no large tracts of arid land, and nothing in the Constitution, therefore, makes no provision for a National control of the arid region or their reclamation. But as our National territory has been enlarged we have within our borders extensive tracts of arid lands which ought to be reclaimed, and it may well be that no power is adequate for their reclamation other than that of the National Government. But if no such power has been granted none can be exercised."

"It does not follow from this that the National Government is entirely powerless in respect to this matter. These arid lands are largely within the Territories and over them, by virtue of Sec. 2 of Article IV, heretofore quoted, or by virtue of the power of Congress in the National Government to acquire territory by treaty, Congress has full power of legislation, subject to no restrictions whatever, and therefore it may legislate in respect to all arid lands within their limits. As to those lands within the limits of the States, at least of the Western States, the National Government is the most considerable owner, and has the power to dispose of and make all needful regulations respecting its property. We do not deem that its legislation can override State laws in respect to the general subject of reclamation. While arid lands are to be found mainly if not only in the Western and newer States, yet the powers of the National Government within the limits of these States are the same (no greater and no less) than those within the limits of the original 13, and it would be strange if, in the absence of a definite grant of power the National Government could not exercise its power of the States along the Atlantic and legislate in respect to improving by irrigation or otherwise the lands within their borders. Nor do we understand that hitherto Congress has acted in disregard to this limitation."

This is practically all that Justice Brewer says on the subject of the irrigation law outside of a few citations. The friends of the irrigation law say the Justice's expressions are clearly conjectural and do not indicate the real view of the court. In some of his comments, they say, he shows a leaning toward the constitutionality of the law, and in others a leaning toward its unconstitutionality. They claim that his sentence, "Nor do we understand that hitherto Congress has acted in disregard to this limitation," is especially significant. It is also claimed in behalf of the law that the Government has not legislated for arid lands in the States, but for its own public lands. Private lands are included in irrigation projects by the Federal Government only when they show a willingness to be included, and there is no law, it is conceded, to compel them to come in and sell their property to the Government or to acquiesce in the regulation of their lands. Justice Brewer's statement that "these arid lands are largely within the Territories" is clearly mistaken, because the statistics show that more than one-half of the States, Oklahoma Territory is only for about one-fifth of its area.

A Suggestion.

(Buffalo News.)

The Government might decide the great whiff of uncertainty which hangs over the spelling "irrigation" for one form and "key" for the other, as the ending of the word. Let "key" stand for straight and "irrigation" for the word in the final syllable indicate a mixture. No charge for the tip.

One Better.

W. L. McClellan, Co. D, Brackett's Battery, Minn. Cav., Portland, Ore., says he can go to the front, and the 15th Mass., one better, as he has a silver dollar of 1799.

Wants to Hear.

Josiah Drake, 111th Ohio, Bloomdale, O., wants to hear from the 23d Mich. and 11th Ky. boys.

Capturing a Locomotive

The demand for "Capturing a Locomotive" was so great that the supply that we had on hand was insufficient. Another edition is on the press and within a few days all those who have selected this book as a premium will receive the copy that they ordered.

THE CHARLESTON NAVY YARD.

The Old Base at Port Royal Abandoned and the Finest Yard on the South Atlantic Seaboard Being Built on Cooper River, Near the City.

On June 29, 1906, John D. Long, of Massachusetts, then Secretary of the Navy, appointed a Board to examine into the expediency of changing the location of the Naval Station from Port Royal, S. C., to some point in the State at or near Charleston. Rear Admiral Frederick Rodgers, U. S. N., was appointed President of the Board. For several years there had been considerable dissatisfaction with the Port Royal yard, owing, principally, to the condition of the dry dock, which, being constantly flooded, had become a decay to such an extent as to render the dock, in the opinion of efficient engineers, unsafe for use. Another reason for dissatisfaction was the fact that the yard was situated in front of the station or in the Beaufort River for heavy ships, and the Indiana, sailing for sufficient water to clear the bar, had to anchor in the river and was obliged to go five miles below the station, to Bay Point, where she had to anchor in the Beaufort River. The dock, it has been recognized, fact that the Port Royal yard must have a new dock if that place be retained as a naval station, and the expediency of looking the ground over with reference to the change of location of the yard before making so large an expenditure of money as that required to build a new dock at Port Royal. In January, 1901, reported in favor of Charleston, many things entering into their decision. Substantial inducements were held out by the Government, which was desirous of having the Navy Yard so near them, offered the ground under consideration (a public park owned by the city) to the Government on its own terms. The advantages of Charleston over Port Royal as a base were many. Charleston being a city of considerable size, connected, as it was, with the North by the "Clyde line" of steamers, as well as by rail, the matter of skilled labor, which had always been an embarrassment at the Port Royal yard, a comparatively simple problem which the proposed change seemed to settle, as all fresh water required for the service of the yard at Port Royal had to be brought down from Charleston, and the cost of the expense, while at Charleston new waterworks had been constructed, and the work about to be started which would supply the city with an abundance of water, and easily furnish the Navy Yard with the required amount by a branch main.

A Tract of 2,000 Acres.

The property purchased by the Government for the Charleston Yard is a tract of 2,000 acres, embracing what is known as the "Palmetto tract" of an adjoining estate owned by a Mrs. W. W. Lawton. It stretches along the west bank of the Cooper River about six miles above the Custom House, and at the end of the tract is a large tract of land, which was thickly covered with live oaks and other trees and a jungle of underbrush. In Colonial days the tract had belonged to the Turnbull family, and the picturesque little brick mansion, covered with vines of the fragrant honeysuckle, is yet standing in which, it is said, the bodies of those who had been executed by the British in old England were buried. The tract was purchased by the city of Charleston for a public park, the old house, with its fine array of live-oaks leading to the river, was left standing, but the Government, having no special appreciation for its beautiful mantles, etc., tore it down and erected on its site the handsome edifice now used for the headquarters of the Navy, and the staff of assistants as an office building. On the Lawton estate, the dignified old family mansion still remains and has recently been renovated with the view of using it as an officers' residence. Its interior finish is a fine example of the colonial period, especially in the drawing room, where the wood is beautifully hand-carved in cornice, doorways and mantles.

Work at the Charleston Yard has gone on at a merry pace since its establishment in 1901. At that end of the yard nearest Charleston fifteen buildings are already completed and nearly finished also is that impressive structure, the new dry dock. This is over 600 feet long by 200 feet wide, and when completed will be large enough to comfortably dock any battleship in the present Navy, and will cost Uncle Sam about \$1,500,000. All the machinery from the abandoned station at Port Royal has been brought to the Charleston Yard and installed together with much new machinery, but more is still required. About 300 men are employed in the shops. There is one item of interest to certain people connected with the Charleston Yard, and that is that it is the first navy yard where there will be a central power plant. A building for this purpose has been erected, and the machinery for it has been purchased. There is still a good deal more to be done before the yard is finished. Piers are to be built, as well as a quay wall all around the yard, and there are houses for officers are also contemplated. Of the seven officers stationed at the yard all but three live in Charleston, and the others are living so far away is great, but at present there are accommodations for only three within the yard. A marine officer and about 100 marines are also quartered on the reservation.

One Day the Most Beautiful.

The Charleston Yard is to-day the largest and best navy yard south of Cape Hatteras, and the most beautiful in the United States. Its natural charms are manifold, and its possibilities great. At the further end of the yard far removed from the great buildings where the work is done, on a little knoll in a park of magnificent live oaks, stands the beautiful new home of the Commandant, which is a large white colonial pillars and broad piazzas. The land in this part of the yard is charmingly irregular, little elevations here and there slope gently down to the river, and everywhere are the picturesque live oaks, their spreading arms festooned with the gray moss and up whose rugged sides frisks squirrels are constantly running. On the other knoll stands the new officers' building with its avenue of live-oaks leading to the water in front, in the rear the pond edged with the same trees, the handsomely furnished water in many places. The space between this building and the house of the Commandant is made beautiful with green grass and beds of brilliant flowers. Besides the hundreds of tame squirrels which are constantly running over the grass and up the trees, escaping generally from the white dog of the Commandant, Kentucky, cat, and other sweet singers of brilliant plumage fill the ear and eye with delight as they flit from bough to bough and tree to tree.

The present Commandant of the Yard, Capt. C. L. Dyer, U. S. N., who was for nearly two years the Governor of the Island of Guam, and whose abilities as an executive are well recognized in the service, has done much for the beauty of the yard since he assumed command. When he first went there that part of the yard where the Commandant's house stands was a wild forest, with no vistas of the river, not a blade of green grass to be seen anywhere, no flowers, no birds, no squirrels, hardly any paths or roads worthy the name. He at once had a landscape gardener visit the place, and together they decided upon the trees to be cut down and upon the improvements. Now the river can be seen, shining between the green trees at every point, a carpet of beautiful, velvety, green grass stretches beyond the reach of the eye, the most of it was planted by hand in the first place, and the soil specially prepared by plentiful applications of the moldering oak leaves. On gently sloping eastern bank are beds of roses, of brilliant poppies, of all the dear old-fashioned flowers such as adorned our grandmothers' gardens, and around the edges of the live-oaks are the flowering roses of pink, red and white, as well as the purple wisteria, which, some day, mingling their color with the old grass moss, will make the most beautiful spots in the whole United States.—M. L. D.

THE MOOREFIELD RAID.

Severe Retribution Visited Upon McCausland for Burning Chambersburg.

Editor National Tribune: I have noticed several accounts of the burning of Chambersburg, Pa., on July 30, 1864, by McCausland and Bradley Johnson's commands, and their pursuit and capture Aug. 8, 1864, at Moorefield, Va., by Gen. W. W. Averell, commanding two brigades of cavalry, the 1st and 2d West Virginia Cavalry, and the 1st and 2d West Virginia Cavalry, and was commanded at this time by Gen. W. H. French, of the 1st West Virginia Cavalry, or Kernstown, in the Shenandoah Valley, on July 24, 1864, in which battle Gen. Crook's army was defeated, we retreated down the Shenandoah Valley, and were driven across the Potomac at Williamsport, Md. Here Gen. Crook divided his force to guard the several crossings of the river, and McCausland and his army, invading Maryland and Pennsylvania, camped at Hagerstown, Md., five miles from Williamsport, on July 29, 1864, and on the morning of the 30th, at that place, Chambersburg, Pa., from which the rebels had just fled, and to this place McCausland directed his command, riding into the city early on the morning of the 30th, demanding of the city a ransom of \$500,000 in currency or \$100,000 in gold. In their failure to meet his demands the city was to be burned. It being impossible for the city to pay the ransom, McCausland and his army, knowing that we were not many miles away and no time to lose, ordered the torch applied, which was quickly done, burning the entire city. Leaving the city in flames, he hastily marched to McCauslandburg. About noon on the 29th instant Averell discovered that there was a force of rebels passing around a creek flank, and with a view to Hagerstown, and a parallel road leading to Greencastle, Pa. At this place the First Brigade joined us, and we proceeded on our march. Early on the morning of the 30th we were in the saddle and going toward Chambersburg. We had only gone a short distance when we were met by a heavy column of black smoke in front of us. Knowing that the rebels were burning something, we were ordered forward at double quick. The smoke came to groups of women and children and men in the road and fields, hovering over the few articles of household effects they saved from the flames, and the rebels, with their hands, almost distracted over the loss of their homes. It would be hard to describe the feeling that this scene had on our minds, making them more determined than upon the suppression of the foe and the upholding of the grand old Stars and Stripes. Putting spurs to our horses we dashed through the streets of Chambersburg, and the enemy, overtaking them near McCauslandburg, quickly putting them to rout, and starting them over the mountains of the Potomac. We then saw, in doubt, several other towns which they would otherwise have burned, it being impossible for the people to pay the ransom required of them.

On July 31, McCausland attempted to cross the Potomac at Hancock, but we were in close pursuit, and getting our artillery on a hill commanding the ford, we fired upon them, and soon put them to flight up the Maryland side of the Potomac River.

On Aug. 1, McCausland tried to capture the Cumberland bridge, but we were in close pursuit, and getting our artillery on a hill commanding the ford, we fired upon them, and soon put them to flight up the Maryland side of the Potomac River.

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Gen. Walker's Capture.

Editor National Tribune: Many comrades have written your valued paper regarding the wounding and capture of Gen. Wm. Walker, but they differ greatly regarding the date. The following incident was corroborated by a personal interview several years after the war. In May, 1864, my regiment (the 24th Mass.), Col. F. A. Osborn commanding, was stationed at Bermuda Hundred, and on May 20, while we were strengthening the line works, some skirmishing was going on, and we anticipated a big fight. The 6th Conn. was in the outer works and a stretcher being brought in I saw a man bleeding from wounds below the knee, and I saw some of the 6th Conn. came up and entering into conversation I learned it was Gen. Walker. He (Gen. Walker) said to me (Gen. Walker), "I suppose you noticed our works were pretty strong as you came in."

"Yes," replied Walker; "but if you had not got me I would have tried them this afternoon." Orders were given that Gen. Walker should have the best possible care, when he remarked, "I did not expect such good treatment." Gen. Plaisant replied, "Here is where humaneness comes in." Gen. Walker's leg was amputated below the knee.

In 1864, while visiting in St. Augustine, Fla., I met Gen. Walker and asked if he was the Gen. Wm. Walker who had been captured at Bermuda Hundred. He replied, "I received the compliments all right," and then told how it happened. He had been ordered to that Department from the South, and arrived May 19, 1864. Being very anxious to learn the situation, he, with one or two officers, advanced too far, and the 6th Conn. boys ordered a surprise attack. He lay down on his hands, and received a volley, three balls hitting him and 16 entering his horse. He said he intended to make this general attack that afternoon, but his capture changed the program. The kindness received at the hospital was not forgotten.

When I saw him on the stretcher he had a long flowing brown beard and hair, and a very kind face. He was very handsome one, and was anxious to secure it for his family. I told him his name, and McCausland could assist him. Twenty-three years have passed since this interview, and if Gen. Walker's sword has not been returned to his family, it would be a kind act to do so now. Comrades, remember the rule, "Do unto others as you would have others do unto you."—Edgar B. Lyon, Co. K, 24th Mass., Dayton, Ohio.

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